

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SONYA LARSON,

Plaintiff

v.

DAWN DORLAND PERRY,
COHEN BUSINESS LAW GROUP, PC and
JEFFREY A. COHEN, ESQUIRE,

Defendants

C.A. No. 1:19-cv-10203-IT

DAWN DORLAND PERRY,

Plaintiff-in-Counterclaim

v.

SONYA LARSON,

Defendant-in-Counterclaim

DAWN DORLAND PERRY’S STATEMENT OF UNDISPUTED MATERIAL FACT

Pursuant to L.R. 56.1 and the rules of this Court, Defendant/Plaintiff-in-Counterclaim Dawn Dorland Perry (“Ms. Dorland”) submits this Statement of Undisputed Material Facts in support of her Motion for Summary Judgment.

	Undisputed Material Fact	Cite
1	Ms. Dorland wrote a letter to final recipient in kidney donation chain in July 2015 (“Dorland Letter”).	Amadei Aff., Ex. C, Doc. No. 181-3
2	Ms. Dorland testified at the first day of her deposition on September 3, 2021 concerning her expressions and creative process in drafting the Dorland Letter.	Amadei Aff., Ex. PP at pp. 127-139, Doc. No. 182-16
3	On July 7, 2015, Ms. Dorland posted the Dorland Letter to her private Facebook group, which at the time had three dozen members.	Amadei Aff., Ex. C, LL, Doc. No. 182-12
4	Ms. Larson admitted that she had access to the Dorland Letter through the private Facebook group.	Amadei Aff., Exs. F, J, MM, RR at pp. 55, 115, 122; Doc. Nos. 181-6, 181-10, 182-13
5	In 2015, Ms. Larson started drafting a short story ultimately to be titled <i>The Kindest</i> .	Amadei Aff., Ex. D, E, RR at pp. 45-46, Doc. Nos. 181-4, 181-5, 182-18
6	Ms. Larson admitted that in 2016 and later, that she had copied language from the Dorland Letter in drafting <i>The Kindest</i> .	See SUMF 4
7	In late 2015, Ms. Larson submitted <i>The Kindest</i> to Plympton for publication in audio format, and it was accepted for publication.	Amadei Aff., Exs. G, H, RR at pp. 59-60, Doc. Nos. 181-7, 181-8, 182-18
8	The published audio version of <i>The Kindest</i> included in it a letter from a kidney donor to a recipient.	Amadei Aff., Ex. G, TT, Doc. Nos. 181-7, 182-20
9	The letter in the original audio version of <i>The Kindest</i> and the Dorland Letter both contain the following similar and/or identical phrases: “I’m a [] year-old white female, and I live”; “my first [article / documentary] about living kidney donation”;	Amadei Aff. C, TT, VV, Doc. Nos. 182-20, 182-22

	<p><i>“I [have been / was] constantly reminded . . . need for kidneys”;</i> <i>“paired exchange”;</i> <i>“maximum impact [in others’ / on another] [lives / life] with only minimal risk to myself”;</i> <i>“My own childhood was marked by trauma and abuse”;</i> <i>“I [wasn’t given an / didn’t have the] opportunity to form secure attachments with my family of origin”;</i> <i>“A positive outcome of my early life is empathy” / “But in adulthood that experience provided a strong sense of empathy”;</i> <i>“While . . . [donate / give] to a [friend or family member / family member or friend], to me the suffering of strangers is just as real”;</i> <i>“[a majority of my mental energy / I channeled my energies] [on / into] imagining and celebrating you”;</i> <i>“My gift . . . trails no strings”;</i> <i>“You [are deserving of / deserve] [an extended and healthy life / all that life has to offer] simply [for being here / because you exist]”</i> <i>“I would love to know more about you [and] perhaps [even / we could] meet”</i> <i>“I accept any level of involvement, even if it is none.”</i></p>	
10	After an initial recording of <i>The Kindest</i> , Ms. Larson contacted Chaz Curet at Plympton by email July 15, 2016, “[o]ne of my stories (“The Kindest”) contains a letter sent from one character to another, which includes a couple sentences that I’d excerpted from a real-life letter. I’m now realizing that for ethical reasons I am uncomfortable keeping those lines in, and would very much like to revise them. I know that the story has already been recorded, but is there any way that those few lines might be re-recorded with the new lines?”	Amadei Aff., Ex. O; RR at pp. 130-131, Doc. Nos. 181-15, 182-18
11	The story was re-recorded and the re-recorded version was published by Audible; however, the original recorded version remained available on other platforms.	Amadei Aff., Exs. Q, FF, Doc. Nos. 181-17, 182-6
12	In the summer of 2016, Ms. Dorland and Ms. Larson corresponded by email concerning Ms. Larson’s short story. At that time Ms. Larson told Ms. Dorland that the story was not yet completed, but that she would show Ms. Dorland a copy when it was finished.	Amadei Aff., Ex. N; Doc. No. 14
13	In the summer of 2017, <i>The Kindest</i> was accepted for publication by American Short Fiction (“ASF”), and was included in a print bound volume of short stories dated Summer 2017.	Amadei Aff., Ex. YY; RR at pp. 195-196, Doc. Nos. 182-25, 182-18
14	In May 2018, ASF featured <i>The Kindest</i> on its website.	Amadei Aff., Ex. X; Doc. No.

		181-24, <u>see also</u> , Doc. No. 96-3.
15	While <i>The Kindest</i> was featured on the ASF website, Ms. Dorland read the story. Ms. Dorland did not have to pay to read the story online.	Amadei Aff., Ex. Z, QQ at pp. 71-76, Doc Nos. 181-26, 182-17
16	Upon reading the portion of the story that contains a letter from a kidney donor to kidney recipient, Ms. Dorland immediately recognized her own letter.	Amadei Aff., Ex. Z, Doc No. 181-26
17	The letter in <i>The Kindest</i> as published online by ASF and the Dorland Letter both contain the following similar and/or identical phrases: <i>“I’m a [] year-old white female, and I live”;</i> <i>“my first [article / documentary] about [living/altruistic] kidney donation”;</i> <i>“paired exchange”;</i> <i>“Throughout my preparation for becoming a donor”/ “As I prepared to make this donation”</i> <i>“[a majority of my mental energy / I channeled my energies] [on / into] imaginig and celebrating you”;</i> <i>“You [are deserving of / deserve] [an extended and healthy life / all that life has to offer] simply [for being here / because you exist]”</i> <i>“I would love to know more about you [and] perhaps [even / we could] meet”</i> <i>“I accept any level of involvement, even if it is none” / “But if you prefer not to, I accept that reaction as well”</i>	Amadei Aff., Ex. C, WW, Doc. No. 182-23; <u>see also</u> , Doc. No. 96-3
18	On June 4, 2018, Ms. Dorland reached out to Samantha Shea, a literary agent, for advice.	Amadei Aff., Ex. Y, Doc. No. 181-25
19	On June 5, 2018, Ms. Dorland corresponded with ASF to discuss her belief that Ms. Larson had plagiarized the Dorland Letter.	Amadei Aff., Ex. Z, Doc. No. 181-26
20	Shortly thereafter, Ms. Dorland learned from Ms. Larson’s own webpage, that Ms. Larson had been selected for the Boston Book Festival’s (“BBF”) short story feature known as One City/One Story.	Amadei Aff., Ex. QQ at pp. 176-180, Doc. No. 182-17

21	Ms. Dorland corresponded with BBF to discuss her belief that Ms. Larson had plagiarized her letter.	Amadei Aff., Ex. BB, Doc. No. 182-2
22	Ms. Larson revised the letter in <i>The Kindest</i> at the request of the BBF. This revised version was ultimately published in an anthology titled <i>Welcome to the Neighborhood</i> in 2019, which also became the version registered with the United States Copyright Office.	Amadei Aff. Ex. BB, DD, NN; Doc Nos. 182-2, 182-4, 182-14
23	The registered version of <i>The Kindest</i> has the following phrases: “I’m a thirty-eight-year-old white female, and I live . . .” “I saw a documentary about altruistic kidney donation.” “I myself know something of suffering, but from those experiences I’ve learned courage and perseverance” “But throughout it all I found a profound sense of purpose, knowing that your life depended on my gift” “Naturally, I am curious about your healing, and perspective on our shared experience. Perhaps we could meet. If you’d rather not, that’s fine”	Amadei Aff., Ex. NN, XX; Doc. Nos. 182- 14, 182-24
24	Ms. Larson changed the sign-off of the letter in <i>The Kindest</i> to “Kindly,” which Ms. Larson knew was frequently used by Ms. Dorland as her sign-off in her emails.	Amadei Aff., Ex. NN, UU, Doc. No. 182- 14, 182-21
25	In or around July 2018, Ms. Dorland also discovered the Brilliance publication of <i>The Kindest</i> and recognized passages of identical text describing her past personal experiences from her own Letter.	Amadei Aff., Ex. FF; Doc. No. 182-6
26	After discovery of the Brilliance version, Ms. Dorland visited Ms. Larson’s website in order to research whether there were any other entities that she may contact relevant to their interest in <i>The Kindest</i> .	Amadei Aff., Ex. QQ at pp. 143-146, Doc. No. 182-17
27	On August 13, 2018, BBF canceled One City/One Story and did not publish <i>The Kindest</i> .	Amadei Aff. Ex. GG, Doc. No. 182-7
28	In 2018, Ms. Dorland registered the Dorland Letter with the United States Copyright Office.	Amadei Aff., Ex. OO, Doc. No. 182-15
29	In the course of this litigation and from materials produced in discovery, Ms. Dorland learned of dozens of communications exchanged between Ms. Larson and her friends during the relevant time period (2015-2020) targeting Ms. Dorland.	Amadei Aff., Ex. UU, Doc. No. 182-21

Date: October 28, 2022

Dawn Dorland Perry

By Her Attorney,

PARTRIDGE SNOW & HAHN LLP

/s/Suzanne M. Elovecky

Suzanne M. Elovecky (BBO# 670047)

Hannah Y. Amadei (BBO# 710509)

30 Federal Street

Boston, MA 02110

(617) 292-7900

(617) 292-7910 FAX

selovecky@psh.com

hamadei@psh.com

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of October 2022, this document was filed and served through the ECF system and sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Hannah Y. Amadei

Hannah Y. Amadei (BBO #710509)

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